

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Yung-Nien Chang et al.
Application No. : 10/602,853
Filed : June 24, 2003
Confirmation No. : 9278
For : VECTORS FOR TISSUE-SPECIFIC REPLICATION
AND GENE EXPRESSION
Group Art Unit : 1633
Examiner : Scott Long

New York, New York
February 9, 2009

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER BY ASSIGNEE

Cell Genesys, Inc. is the owner of the entire right, title and interest in the above-captioned application and in United States Applications 11/601,071, 11/977,902 and 11/977,533 (hereinafter "the applications") and U.S. Patents 6,551,587, 6,638,762 and 5,998,205 (hereinafter "the patents").

The undersigned, on behalf of Cell Genesys, Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-captioned application that would extend beyond the expiration date of the full statutory term of any of the patents or any patent(s) granted on the applications, including any patent term extensions, restorations or adjustments for any patent available under all

applicable statutes including 35 U.S.C. §§ 154 through 156 and 173, as shortened by any terminal disclaimer filed prior to the grant of the patents or the applications.

The undersigned, on behalf of Cell Genesys, Inc., also hereby agrees that any patent so granted on the above-captioned application shall be enforceable only for and during such period that the legal title to it and to the patents or any patent(s) granted on the applications shall be commonly owned. This agreement runs with any patent granted on the above-captioned application, and is binding upon the grantee, its successors or assigns.¹

In making the above disclaimer, the undersigned, on behalf of Cell Genesys, Inc., does not disclaim the terminal part of the full statutory term of any patent granted on the above-captioned application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of any of the patents or any patent(s) granted on the applications, in the event that any such patent expires for failure to pay a maintenance fee, is held unenforceable and/or invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 35 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, or its term is in any manner shortened prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

¹ It is applicants' and assignee's intention that if any change in the patent statutes changes the expiration date of any of the patents or on any patent(s) granted on the applications, or if any such patent is hereafter awarded patent term adjustment under 35 U.S.C. § 154(b), then the date beyond which the term of any patent to issue on this application is disclaimed shall change along with the expiration date of such patent.

The undersigned states that she is an attorney of record in the above-identified patent application and is authorized to sign the Terminal Disclaimer on behalf of Cell Genesys, Inc., that she has reviewed the evidentiary documents relating to title of the above application and the patents and the applications in Cell Genesys, Inc., and certifies that, to the best of the undersigned's and Cell Genesys, Inc.'s knowledge and belief, title to the above application and the patents and applications is in Cell Genesys, Inc. by virtue of the following assignments recorded in the United States Patent and Trademark Office: (1) for the above application, from the named inventors to Genetic Therapy, Inc. at Reel 009198, Frame 0170, recorded on May 18, 1998, and from Genetic Therapy, Inc. to Cell Genesys, Inc. at Reel 014743, Frame 0588, recorded on December 1, 2003 and at Reel 015530, Frame 0095, recorded on July 6, 2004; (2) in U.S. Application 11/601,071, from the named inventors to Genetic Therapy, Inc. at Reel 009198, Frame 0170, recorded on May 18, 1998, and from Genetic Therapy, Inc. to Cell Genesys, Inc. at Reel 014743, Frame 0588, recorded on December 1, 2003; (3) in U.S. Application 11/977,902, from the named inventors to Genetic Therapy, Inc. at Reel 009198, Frame 0170, recorded on May 18, 1998, and from Genetic Therapy, Inc. to Cell Genesys, Inc. at Reel 014743, Frame 0588, recorded on December 1, 2003; (4) in U.S. Application 11/977,533, from the named inventors to Genetic Therapy, Inc. at Reel 009198, Frame 0170, recorded on May 18, 1998, and from Genetic Therapy, Inc. to Cell Genesys, Inc. at Reel 014743, Frame 0588, recorded on December 1, 2003; (5) in U.S. Patent 6,551,587, from the named inventors to Genetic Therapy, Inc. at Reel 009198, Frame 0170, recorded on May 18, 1998, and from Genetic Therapy, Inc. to Cell Genesys, Inc. at Reel 014743, Frame 0588, recorded on December 1, 2003 and at Reel 015530,

Application No. 10/602,853
Response dated January 7, 2009
Response to October 7, 2008 Office Action
Atty. Dkt. No. 105576-0065-101

Frame 0095, recorded on July 6, 2004; (6) in U.S. Patent 6,638,762, from the from the named inventors to Genetic Therapy, Inc. at Reel 009198, Frame 0170, recorded on May 18, 1998, and from Genetic Therapy, Inc. to Cell Genesys, Inc. at Reel 014743, Frame 0588, recorded on December 1, 2003 and at Reel 015530, Frame 0095, recorded on July 6, 2004; and (7) in U.S. Patent 5,998,205, from the named inventors to Genetic Therapy, Inc. at Reel 008634, Frame 0363, recorded on August 1, 1997, and from Genetic Therapy, Inc. to Cell Genesys, Inc. at Reel 015530, Frame 0095, recorded on July 6, 2004.

This Terminal Disclaimer is accompanied by a fee transmittal form authorizing payment of the appropriate fee under 37 C.F.R. § 1.20(d).

Respectfully submitted,



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